

REMARKS

Applicants have carefully reviewed the Office Action. Claims 1 and 6-21 are pending in the application. Claims 1 and 6-19 are rejected. Claims 2-5 are canceled without prejudice or disclaimer. Claims 1, 9, 12-14, and 19 are amended to further clarify the claims. Claims 20 and 21 are added. No new matter is added. Reconsideration of the outstanding rejections in the present application are requested based on the following remarks.¹

Interview Summary

On June 2, 2008, Examiner McCormick, Examiner Weiss and the undersigned representative, Tom Corrado, conducted an in-person examiner interview. The undersigned representative thanks the Examiners for the courtesies extended during the interview. There were no exhibits shown nor was a demonstration conducted. The Leadtrack and Lamburt reference (U.S. Patent 6,374,241) references were discussed with respect to the independent claims. No agreement was reached.

Claims 1, 2, 6-8, 11 & 16 Rejected under 35 U.S.C. 103(a)

Claims 1, 2, 6-8, 11, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack.com ("Leadtrack") in view of U.S. Patent 6,374,241 to Lambert *et al.* ("Lambert"). This rejection is traversed.

The Office Action fails to establish a *prima facie* case of obviousness. As recited in Section 2142 of the MPEP, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., assertions regarding dependent claims, whether a reference constitutes prior art, whether references are legally combinable for obviousness purposes) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 2 USPQ2d 1438 (Fed. Cir. 1991).

Neither Leadtrack nor Lambert, neither singularly nor in combination, teach or suggest "A computer implemented method for validating a new sales lead from an agent employed in a sales lead processing entity, the method comprising: inputting new sales lead information representing a new sales lead from an agent using an agent computer interface of a sales processing system; transmitting the new sales lead information to a lead processing portion of the sales processing system, the lead processing portion having a leads memory portion, the leads memory portion storing existing sales lead information relating to existing sales leads; comparing the new sales lead information, by the lead processing portion, with the existing sales lead information; determining, by the lead processing portion, if there is a match between the new sales lead information and any of the existing sales lead information; tagging, by the lead processing portion, the new sales lead information as a duplicate lead based on a determination that there is a match between the new sales lead information and any of the existing sales lead information; and in response to the tagging, processing the new sales lead information by the lead processing portion in the event that the new sales lead information is determined to be an agent generated lead and deleting the new sales lead information as an agent generated lead in the event the new sales lead information is determined to be a non-agent generated lead." as recited in amended claim 1 of the present application. (Emphasis added).

As admitted in the Office Action, "Leadtrack does not disclose *tagging, by the lead processing portion, the new sales lead information as a duplicate lead based on a determination that there is a match between the new sales lead information and any of the existing sales lead information.*" Office Action, p. 3. The Office Action asserts that Lambert "discloses a method for detecting duplicate entries in a database by matching phone numbers and calculating a score based on name matching (col. 1; line 54-col; 2; line 4). Further, Lamburt discloses tagging duplicates (col. 47; lines 27-28)." *Id.* The Office Action further asserts that:

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have included tagging, as disclosed by Lamburt in the system disclosed by Leadtrack, for the motivation of providing an alert that duplicate data is contained in the file. Leadtrack discloses that the process of duplicate checking requires one to append new information to previously entered records (pg. 2; first bullet), therefore, it is obvious that the system of Leadtrack would benefit with the expansion to include an intermediary

step of tagging the duplicate information so that the data entry person is alerted to the duplicate information and can properly append it to the existing record rather than creating a duplicate record.

Office Action, p. 3. The Office Action fails to state a proper motivation to combine Leadtrack and Lambert. The asserted motivation is that “[t]herefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tagging, as disclosed by Lambert in the system disclosed by Leadtrack, for the motivation of providing an alert that duplicate data is contained in the file.” *Office Action*, p. 3. As pointed out on page 3 of the Office Action, Leadtrack recites “On-line duplicate checking requires one to append new information to previously entered records rather than creating a duplicate.” *Leadtrack*, p. 2. Since Leadtrack does not allow duplicate entries and requires the new information to be appended to the previous record, Leadtrack has no reason to tag the new sales lead information as a duplicative lead since the new lead is not allowed. Thus, there is no motivation to modify Leadtrack as asserted in the Office Action.

Moreover, in *KSR International Col. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), the Supreme Court did not eliminate the teaching, suggestion, or motivation (TSM) test from the determination of obviousness, but rather merely opposed “a formalistic conception of the words teaching, suggestion, and motivation, or ... overemphasis on the importance of published articles and the explicit content of issued patents.” *KSR International Col. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). As the Federal Circuit has subsequently explained:

[A] flexible TSM test remains the primary guarantor against a non-statutory hindsight analysis.... The TSM test, flexibly applied, merely assures that the obviousness test proceeds on the basis of evidence – teachings, suggestions (a tellingly broad term), or motivations (an equally broad term) – that arise before the time of invention as the statute requires.

Ortho-McNeil Pharmaceutical v. Mylan, 2007-1223, *11 (Fed. Cir. Mar. 31, 2008) (emphasis added). Thus, to establish a *prima facie* case of obviousness the Examiner must show *evidence* of teaching, suggestion, or motivation to make the proposed combination of references that arose before the time of invention. Such a showing is required to guard against allegations of obviousness that are actually derived from impermissible hindsight.

Lastly, the applied art fails to teach or suggest the newly added limitation “in response to the tagging, processing the new sales lead information by the lead processing portion in the event that the new sales lead information is determined to be an agent generated lead and deleting the

new sales lead information as an agent generated lead in the event the new sales lead information is determined to be a non-agent generated lead.” as recited in amended claim 1 of the present application. (Emphasis added).

For at least these reasons, the Office Action fails to meet the *prima facie* burden of obviousness with respect to claim 1 of the present application. Since claim 16 recites “the lead processing portion comparing the new sales lead information with the existing sales lead information, and determining if there is a match between the new sales lead information and any of the existing sales lead information, the lead processing portion tagging the new sales lead information as a duplicate lead based on a determination that there is a match between the new sales lead information and any of the existing sales lead information,” claim 16 is patentable over the applied art for the same reasons recited above with respect to claim 1.

For at least these reasons, independent claims 1 and 16, as well as dependent claims 6-15, 17, and 18, respectively, are patentable over the applied art. Withdrawal of the rejection of claims 1, 6-8, 11, and 16 is requested.

Rejection of Claims 12-14 under 35 U.S.C. 103(a)

Claims 12-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack in view of Lambert in view of Official Notice. Since claims 12-14 are dependent on allowable independent claim 1, dependent claims 12-14 are allowable as well. Applicants traverse the taking of Official Notice in that the rationale asserted for taking Official Notice is “that data review and quality control of data are old and well known in the data processing arts.” *Office Action*, p. 7. The review of the sales leads tagged as being duplicative are not being reviewed for quality control, but to determine whether the sales lead should be deemed to be an agent generated lead which may result in a higher commission for the agent if the sale is completed which is not common knowledge or well known in the art. Claims 12-14 have been further amended to provide further clarity. Therefore, the undersigned representative will not address the arguments with respect to these claims and reserves the right to address these arguments at a later time. Withdrawal of the rejection of claims 3 and 12-14 is requested.

Rejection of Claim 19 under 35 U.S.C. 103(a)

Claim 19 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack in view of Lambert in view of U.S. Publication 2003/0229504 to Hollister (“Hollister”). Since claim 19 contains similar limitations as argued above with respect to claim 1, claim 19 is

allowable for the same reasons. Therefore, the undersigned representative will not address the arguments with respect to these claims and reserves the right to address these arguments at a later time. Withdrawal of the rejection of claims 4, 5, and 19 is requested.

CONCLUSION

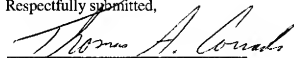
The foregoing is submitted as a full and complete Response to the Non-final Office Action mailed March 3, 2008, and early and favorable consideration of the claims is requested. If the Examiner believes any informalities remain in the application which may be corrected by Examiner's Amendment, or if there are any other issues which may be resolved by telephone interview, a telephone call to the undersigned attorney at (703)714-7448 is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0206, and please credit any excess fees to such deposit account.

Dated: June 3, 2008

HUNTON & WILLIAMS LLP
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102
Phone 703-714-7400
Fax 703-714-7410

Respectfully submitted,



Thomas A. Corrado
Attorney for Applicant
Registration No. 42,439